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SUBJECT: War Crimes Indictee Re-Elected, But Unlikely to Regain Immunity From Prosecution

Ref: (A) Zagreb Activity Report 23 OCT; (B) ZAGREB 372 and

previous; (C) ZAGREB 1036

¶1. (SBU) SUMMARY: Right-wing parties suffered defeat at the polls last weekend with the loss of almost two-thirds of their seats in Parliament; however a side issue remains following the re-election of war crimes indictee and regional party leader Branimir Glavas to Parliament. The strong-man of Osijek is claiming that his parliamentary immunity should be automatically restored and the criminal procedure against him for war crimes should be suspended. Glavas was indicted twice in 2007 by Croatian courts for two separate incidents of torture and murder of Serb civilians in Osijek during the war. He is currently in prison while the trial proceeds (REFS A and B). Legal scholars note, however, that there are no legal grounds to cancel Parliament's decision earlier this year stripping Glavas of his parliamentary immunity. END SUMMARY.

¶2. (U) Glavas' re-election to the Sabor is the first time in Croatia that someone has been voted into Parliament while sitting in prison facing war crimes charges. His trial, which combines two separate cases of civilian murders, is ongoing in the Zagreb County Court. Glavas and his attorney are claiming that since he was elected to a new mandate, the legal foundation for the stripping of his immunity has expired. Local press, fueled by this assertion, has speculated whether his immunity would indeed remain valid. While the situation is clearly not foreseen by the Constitution or Croatian laws, experts seem to be in agreement that Glavas will remain in detention and without parliamentary immunity.

¶3. (SBU) Deputy State Prosecutor for War Crimes Antun Kvakan, who made the initial request of Parliament to remove Glavas' immunity, estimated that even with a new electoral mandate Glavas' eligibility for prosecution would remain the same. Glavas still has two valid, final indictments against him, so the facts remain unchanged, he said. Deputy Osijek County Court President Miroslav Rozac agreed that Glavas should remain without immunity, as the reasons behind the decision removing his immunity remain valid. Only in the case of a new indictment, Rozac added, would a new procedure be needed. In that case, Parliament's Immunities Committee would have to reconvene and assess the charges. Rozac called Glavas' assertions "political."

¶4. (SBU) According to Ivo Josipovic, legal expert and professor at Zagreb's Law Faculty, the speculation of new immunity is nonsense and holds no legal ground. A new Parliament is bound to respect decisions made by the previous one, he noted. He did raise a logistical problem facing Glavas: as he is detained in prison, he may be unable to be present to take the oath of office (administered

on the floor of Parliament) and to establish his new mandate. Josipovic didn't address whether Glavas could be granted temporary release to take the oath. In the event that Glavas is unable to take his seat, the second individual on the party list would take his position.

¶5. (SBU) COMMENT: Whatever Glavas may claim, it is unlikely he will be able to use his electoral success to avoid trial. Nevertheless, with his Eastern Slavonia regional party (the HDSSB) having won three seats in the tightly contested Parliament (REF C), he may well try to leverage the situation to at least get himself out on bail and, as his party likes to describe it, "defend himself from freedom." Despite the on-going scramble to form a coalition, neither of the two large parties, the SDP or the HDZ, wants to include the HDSSB in government. It is the Zagreb County Court that determines whether Glavas remains in custody and, given past troubles with witness intimidation in this case, it is our expectation that it will ensure he remains in custody as the trial continues. END COMMENT.

BRADTKE